IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 20508 of 2004

Between:

Ambati Murali Manohar, S/o A. Nagamma, Executive Director,
B. C. Corporation, Cuddapah (on deputation) R/o Cuddapah, Cuddapah District.

..... PETITIONER

AND

1 The State of A.P., represented by Principal Secretary to Government, Social Welfare Department, Secretariat, Saifabad, Hyderabad
2 The State of A.P. represented by Principal Secretary to Government, Finance & Planning Department, Secretariat, Hyderabad.
3 The State of A.P. represented by Principal Secretary to Government, General Administration Department, Secretariat, Hyderabad.
4 The Andhra Pradesh Public Service Commission, represented by Secretary, Gruhakalpa, Hyderabad.
5 The Commissioner of Social Welfare, A.P. Hyderabad.
6 The Commissioner of Tribal Welfare A.P., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records relating to and connected with the order and judgment rendered in OA 3536 of 2001 with M.A. No. 3177 2003, dated 13-9-2004 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad and quash or set a side by holding the same as arbitrary, erroneous and unsustainable and: (b) Consequently direct the respondents to fill up all the vacancies available between 2.5.1996 to 31-8-1998 under Group-I Services vide notification No.5/98 and to consider the case of the petitioner according to his merit and further direct the respondents to consider the case of the petitioner for appointment to the post of District Social Welfare Officer in the three vacancies available as per the letter of Commissioner of Social Welfare

dated 18-11-1999 with all consequential benefits such as seniority, arrears of pay etc

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO

Counsel for the Respondent Nos.1, 2, 3, 5 and 6: GP FOR SERVICES II.

Counsel for Respondent No.4: Mr.M.VIJAYA KUMAR.

The Court made the following:

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed assailing the order passed by A.P. Administrative Tribunal (hereinafter referred to as Tribunal) in O.A.No.3536 of 2001 with MA.No.3177 of 2003, dated 13.9.2004.

2. The petitioner is the applicant before the Tribunal. He filed the aforesaid OA seeking directions to the respondents to fill up all the vacancies available between 2.5.1996 to 31.8.1998 under Group-I Services issued in notification No.5/98 more particularly to consider the case of the petitioner to the post of District Social Welfare Officer. After considering the matter, the Tribunal dismissed the above OA. Against which the present Writ Petition has been filed.

3. The learned counsel for the petitioner submits that the petitioner got 8th rank in general and in respect of BC-B cadre, he is No.1, for which the recruitment had taken place in pursuance of the letter issued by the Commissioner of Social Welfare dated 18.11.1999. He further submits that out of 19 categories of posts, only eight vacancies were filled up and other categories were not filled up. He also submits that the Commissioner of Social Welfare placed indent for filling up the posts of District Social Welfare Officers as early as in 1999, but giving a go-by to the said communication, the respondents did not fill up those vacancies, and now the present advertisement has been issued, wherein the posts of District Social Welfare Officers are notified. Since the petitioner has come out in the merit on the earlier occasion, appropriate posting may be given to him in the cadre of DSWO posts, as he was denied that opportunity in 1998 notification even though vacancies were available.

4. On the other hand the learned Standing Counsel for A.P. Public Service Commission (for short APPSC) submits that the petitioner got through in the selection process and he was given appointment on the basis of his option and time was also granted to him to join the duty beyond the stipulated period and the

petitioner was aware of the then situation and therefore the Tribunal has correctly decided the issue.

5. We have also heard the learned Government Pleader for Services-II.

6. It is to be noted that the petitioner had already joined the post of District Tribal Welfare Officer and he had completed more than four years of service. But as the Government did not notify the actual number of posts available in certain categories, the APPSC cannot be found fault in that regard. However, we note that from the notification issued in advertisement No.5/1998 though as many as 19 categories of posts were notified, number of vacancies were not mentioned in more than 10 to 11 cadres. We do not find any logic in not notifying the number of posts. Recruitment has to take place only basing on the notifications issued with reference to the vacancies. Unless the Government assess the vacancies, it would not be appropriate to direct APPSC to issue notification for recruitment. Had the vacancies been notified in advertisement No.5/1998, the present situation would not have arisen. Thus we find that without notifying the actual number of vacancies, subject to minor variations, it would lead to any amount of litigation, with the result the entire recruitment would be delayed considerably. That is what happened in other services also. Under those circumstances, we are of the considered view that whenever the Government makes a requisition to APPSC for recruitment to various posts, it shall specifically state number of vacancies in such notification so as to avoid complications in the recruitment process. Under those circumstances, we do not find any merit in the Writ Petition.

7. In the result, the Writ Petition is dismissed. No costs.

(G.BIKSHAPATHY, J.)

7th March, 2005.

(P.S.NARAYANA, J.)

SSR

To

1 The Principal Secretary to Government, Social
Welfare Department, State of A.P., Secretariat, Saifabad, Hyderabad
2 The Principal Secretary to Government, Finance
& Planning Department, State of A.P. Secretariat, Hyderabad.
3 The Principal Secretary to Government, General
Administration Department, State of A.P. Secretariat, Hyderabad.
4 The Secretary, Andhra Pradesh Public Service Commission,
Gruhakalpa, Hyderabad.
5 The Commissioner of Social Welfare, A.P. Hyderabad.
6 The Commissioner of Tribal Welfare A.P., Hyderabad.

7 The Registrar, A.P. Administrative Tribunal, Hyderabad.

8 2 CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

9 2 CD copies.